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NATIONAL DEFENSE UNIVERSITY

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**PROFITS OR PRINCIPLES?
CLINTON'S 1994 DECISION TO DELINK
CHINA'S MFN STATUS AND HUMAN RIGHTS**

Core Course 5603 Essay

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*"It turned out that MFN was useful as a tool only to bludgeon George Bush "*¹

Introduction

On May 26, 1994, President Clinton announced his decision to renew "most-favored nation (MFN)" trade benefits for China and to "delink" China's progress on human rights from its eligibility for MFN status. In explaining his decision, Clinton's justification echoed that previously advanced by President Bush, which then candidate Clinton had criticized as "coddling" Chinese dictators. Now that he was President, Clinton decided to cast aside both his campaign rhetoric and his 1993 Executive Order that had formally tied MFN to human rights. This essay will examine the reasons behind Clinton's policy reversal.

Basic Background. MFN and U.S -China Trade

Since 1934, the United States has extended MFN trade status to most of its trading partners. In 1951, Congress enacted legislation which required the President to suspend MFN status for the Soviet Union and all members of the Sino-Soviet bloc.² Following the normalization of U.S -China relations in 1979, President Carter conferred MFN status on China in 1980 in order to improve commercial ties between the two countries. As a "non-market economy," however, the law stipulated that the President must certify annually that China was complying with the freedom of emigration requirements of the Trade Act of 1974 (the "Jackson-Vanik" amendment). China's eligibility for MFN status was never challenged until after the 1989 Tiananmen incident.³ Even then, this challenge was based on China's shortcoming in the general category of

human rights, not over the absence of freedom of emigration. This was a dubious application of Jackson-Vanik and reflected in part Congressional frustration with Bush's willingness to maintain channels of communication with the Chinese leadership in the immediate aftermath of Tiananmen -- just weeks after Tiananmen, Bush's National Security Adviser made the first of two secret visits to Beijing. News of the visits eventually leaked out

China's enjoyment of MFN status, coupled with the economic growth unleashed by the economic reforms initiated by Deng Xiaoping during the 1980's, worked together to expand the trade relationship between the United States and China. Between 1990-93, U.S. exports to China nearly doubled from \$4.8 billion to \$8.8 billion, making China the tenth-largest market for the U.S. in 1993 and America's fastest growing export market.⁴ China was Boeing's biggest single customer.⁵ By 1993, U.S. firms had invested \$10 billion in China and over 500 American companies maintained offices there.⁶ Revocation of MFN for China put at risk this important export market -- which provided jobs for some 200,000 Americans⁷ -- since China had threatened to retaliate in kind.

While loss of MFN had only a potential impact on U.S. exporters, the impact on Chinese exporters was expected to be immediate and severe. In 1993, China's merchandise exports to the U.S. equaled \$31.5 billion, nearly one-third of China's total exports.⁸ A World Bank study suggested that loss of MFN would raise the average U.S. tariff on Chinese goods five or ten-fold and might reduce those exports by 96 percent.⁹ Clearly, China would suffer most, but it would not be alone. As U.S. importers replaced Chinese goods with sourcing from other countries, cost increases would be passed on to American consumers. There would also be a grave impact on the economic well-being of

Hong Kong, the port of transit for 70 percent of Chinese exports to the U.S.¹⁰ Finally, loss of MFN would damage the livelihood of many foreign-invested firms in China, since they accounted for 39 percent of China's foreign trade¹¹

Clinton's 1993 Executive Order

The first time that the new Clinton Administration confronted the MFN renewal issue, it proved true to its campaign rhetoric. In May 1993, the President granted MFN but also issued an Executive Order that explicitly conditioned renewal in 1994 on progress in seven specific areas related to human rights. In two areas -- emigration and compliance with a 1992 bilateral agreement concerning prison labor -- failure to meet the conditions would require the Secretary of State to recommend to the President that MFN not be extended. The Executive Order allowed more flexibility for the remaining five areas, only mandating that the Secretary determine if China made "overall, significant progress." These areas were: adhering to the Universal Declaration of Human Rights, releasing and accounting for those imprisoned or detained for the non-violent expression of their political and religious beliefs, ensuring humane treatment of prisoners, protecting Tibet's distinctive culture, and permitting international radio and television broadcasts into China.¹²

The Executive Order was part of an effort to get the Administration and Congress -- following years of acrimony over this issue between Bush and a Democratic Congress -- to speak with one voice in the hope that this might elicit a more positive response from China. Leading Congressional critics of MFN renewal, such as Senate Majority Leader George Mitchell and Congresswoman Nancy Pelosi, welcomed Clinton's

action and said that further Congressional action was unnecessary.¹³ In this respect, the Executive Order was a success in that it temporarily suspended the rancorous debate on MFN conditionality. It did not, however, persuade the Chinese to become more forthcoming.

Not surprisingly, the business community criticized the President's Executive Order. They felt that the Administration ignored its views and had given more weight to the opinions of human rights activists.¹⁴ Some in Congress also felt overlooked, this helped precipitate the emergence of a centrist Congressional coalition resolved to delink MFN and human rights.

Clinton's May Executive Order was followed by a downward slide in U.S.-China relations.¹⁵ By the summer of 1993, some State Department officials were questioning the effectiveness of the U.S. approach.¹⁶ The Administration conducted a review of its China policy and this resulted in a September 1993 Clinton decision to pursue an "expanded strategy of comprehensive engagement." As part of this strategy, the United States stepped up the tempo of high-level visits to China in an effort to establish a more healthy and constructive bilateral relationship.¹⁷ This new strategy notwithstanding, as late as February 1994, the Administration remained publicly committed to its linkage between human rights and MFN extension. As State Department Assistant Secretary Winston Lord testified to Congress on February 24: "Mr. Chairman, I am authorized today to state emphatically once again the official position of the Administration: More progress on human rights is needed for the President to extend MFN. The President will keep faith with his convictions and his compact with Congress."¹⁸

Within a month, following an unsuccessful trip to China by Secretary Christopher, there were press reports that the Administration planned to decouple MFN and human rights. Christopher called Mitchell and Pelosi to deny the reports.¹⁹ Press leaks, however, continued to hint that a policy shift was likely. One leak consisted of extensive extracts from an April memo from Lord to Christopher, warning of a “malaise” in U.S.-Asian relations, and recommending a reassessment of U.S. priorities.²⁰ Indeed, a policy review was already well underway. The result was a policy *volte-face*, as announced by President Clinton on May 26, 1994.

The President’s May 26 Announcement

Speaking at a news conference, President Clinton unambiguously severed the link between human rights and MFN, arguing that “..we have reached the end of the usefulness of that policy, and it is time to take a new path toward the achievement of our constant objectives.”²¹ Clinton acknowledged that China had not achieved “overall, significant progress” in all areas outlined in his 1993 Executive Order, but maintained that “sufficient progress” had occurred on the two mandatory provisions. Accordingly, the President believed there was a defensible legal case for renewing MFN status for China. More importantly, Clinton decreed that future extensions would be based solely on the freedom of emigration issue, not on general human rights considerations. This decision, he stated, offered “.. the best opportunity to lay the basis for long-term sustainable progress in human rights and for the advancement of our other interests in China.”²² At the same time, Clinton reaffirmed his determination to support improved human rights in China, a goal which he now believed could best be advanced by engagement, not isolation.

In order to demonstrate his continued support for human rights, Clinton also announced on May 26 that he was extending the sanctions imposed by the United States after Tiananmen. He also announced a new ban on the import of munitions from China and listed other steps the United States would take to advance the cause of human rights and democracy -- more broadcasts, more support for human rights NGO's, and the development (with the business community) of a voluntary set of principles for business activity in China²³

The reaction to the President's actions followed the well-known fault lines on the MFN issue. Human rights activists, organized labor, and a core group in Congress were sharply critical. Business leaders, consumer groups, foreign leaders (especially in Asia), and a large contingent in Congress welcomed Clinton's change of tack and more realistic approach. What follows below is an explanation of how this line-up, and other factors, influenced Clinton's decision.

The Reason Behind Clinton's Policy Reversal

Clinton's decision to overturn his own MFN policy was the result of two sets of factors. First, there was a growing realization that the policy was not only ineffective but possibly even detrimental to larger U.S. strategic interests. Second, there was a major shift in the domestic politics of the issue as the business community lobbied more actively on behalf of MFN renewal.

Let us begin with the first set of factors. The threat of revoking MFN lost its effectiveness when the threat itself was no longer credible. This change occurred when Clinton assumed office. As long as Congress and the White House were controlled by

different parties, MFN was a useful tool. In discussions with the Chinese, the Executive Branch could argue that concessions from China were necessary so that Presidential vetoes of legislation to revoke MFN could be sustained. Clinton's election victory altered this dynamic as he would have been unwilling to cast a veto over MFN (hence the 1993 Executive Order gambit). Thus, beginning with the Clinton Administration, there was now for the first time the actual risk that a failure on the part of the United States and China to reach agreement on the MFN issue would compel the President to revoke the special trade status.²⁴

Ironically, from China's perspective, this new situation actually diminished the credibility of the MFN threat because Beijing did not believe Clinton would take such a fateful step. Beijing was well aware of the divisions within both the United States Government and the American public on this issue. A number of events in the months before May 1994 may have suggested to the Chinese government that the tide was turning and in its favor. For example, one was simply the Administration's September 1993 switch to a policy of "comprehensive engagement." Another was the November 1993 APEC meeting, where the principal U.S. theme was to strengthen regional trading ties in Asia and promote broader economic cooperation. Denying MFN would have been inconsistent with that policy objective. Moreover, in Clinton's APEC meeting with Jiang Zemin, the Administration's emphasis was clearly on the American jobs that could be created through expanded trade with China.²⁵ This and a U.S. decision to approve a supercomputer sale to China only served to undercut the MFN threat.

China's suspicions that the U.S. would not use the MFN bludgeon could only have been reinforced by a series of high-level trade missions to China led by U.S. Cabinet

members in early 1994²⁶ The Chinese reciprocated these visits with their own buying missions to the United States A number of well-publicized missions, with multi-billion dollar shopping lists, arrived in April and May of 1994²⁷ The timing was certainly no coincidence and reflected China's strategy to energize the American business community on its behalf.

The sorry state of U S policy toward Asia (as described in Lord's April 1994 memorandum to Secretary Christopher) in the period leading up to the MFN decision added a strategic consideration to the President's decision. There was virtually no international support for revoking MFN and many Asian leaders -- such as Singapore's Lee Kuan Yew -- sharply criticized the U.S. linkage between MFN and human rights. U.S. negotiations with the North Koreans on the nuclear issue, then at a critical stage, served to underscore China's strategic importance and gave the Clinton Administration added pause for thought: perhaps it was more important to restore good ties with China than add to the list of troubles

The growing complexity of the MFN calculus was reflected in a new bureaucratic line-up on the issue. While in 1993, the National Security Council (NSC) and the State Department were chiefly responsible for the Executive Order, in 1994, new players joined the decision-making process Commerce, Treasury, Agriculture, USTR and the National Economic Council (NEC) As early as January 1994, NEC Director Rubin suggested in remarks to the press that MFN and human rights should be decoupled²⁸ Treasury Secretary Bentsen and Commerce Secretary Brown agreed Bentsen and Rubin vied with State for control over China policy,²⁹ and in mid-March, a policy review then being

chaired by Winston Lord was taken over by an NSC/NEC team. This shift provided a far stronger voice for the Administration's economic team.³⁰

The shifting bureaucratic politics accurately reflected the changing national politics of the MFN issue as business and corporate interests revved up their lobbying efforts. The 1993 Executive Order served as a wake-up call for the business community, which in previous years could rely on President Bush's vetoes of Congressional attempts to revoke MFN and the shortage of votes to overrule his veto. After May 1993, business interests led by the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Coalition for U.S.-China Trade waged a year-long campaign which stressed that trade was part of the solution, not the problem -- that U.S. companies in China were improving working and living conditions for Chinese workers.³¹ The Business Coalition focused particularly on California because of its importance to Clinton's re-election hopes, in April 1994, the heads of over 400 Californian companies urged MFN renewal in a letter to Clinton. Business leaders from Florida, another key state, sent a similar letter.³²

The business community's activism coincided with -- and helped encourage -- the emergence of a more centrist coalition in Congress. Members with pro-business sentiments looked anew at the MFN issue in light of the growing economic relationship between China and the U.S. Between September 1993 and March 1994, some ninety members of Congress visited China.³³ They left with a better understanding of both human rights conditions and the market potential for U.S. business. Some members may have been influenced by the views of senior American statesmen, such as Henry Kissinger and Cyrus Vance, who jointly supported MFN renewal at a forum sponsored by the Council for Foreign Relations. Even independent studies commissioned by Congress

seemed to argue for MFN renewal. An extensive GAO report issued May 4, 1994, at the request of Senators John Glenn and Joseph Lieberman, cited MFN renewal as the “single most important issue affecting U.S. trade relations with China.”³⁴

This new centrist coalition was bipartisan and included a number of respected and powerful members. On the Senate side, it included Senators Dole, Boren, Kerry, Baucus, Bradley and Johnston. On the House side, it included Representatives Foley, Hamilton, Gibbons, Matsui, McDermott, Ackerman and Leach. Some of these individuals had previously called for revocation of China’s MFN privileges. Representative McDermott (a Democrat from Seattle, home to Boeing) obtained signatures from 105 other House members for a May 17 letter to Clinton urging MFN renewal.³⁵

However, there were still some senior lawmakers who opposed MFN renewal. This group included Senate Majority Leader Mitchell, House Majority Leader Gephardt and House Whip Bonior. Following the President’s May 1994 extension of MFN, this group unsuccessfully sought to pass new legislation that would have reversed Clinton’s decision and impose sanctions on certain Chinese goods. In the House, two such measures were roundly defeated August 9 by votes of 75-356 and 158-270.³⁶ There was never any vote on the Senate side.

Thus, by May 1994, the confluence of forces was such that the human rights lobby and its advocates on the Hill were no match for business interests and the growing support for engagement with China. Although human rights organizations had succeeded in elevating the issue of human rights, they were less successful as lobbyists. They were disorganized, found it harder to criticize a supposedly pro-human rights Democratic Administration, and lacked grassroots backing.³⁷ Polling data from 1993 and 1994

showed diminishing favorable support (from 65 percent to 50 percent) for placing demands on China to improve human rights as a condition for trade³⁸ But most important, the human rights lobby had limited influence against a force -- trade -- that had become a liberalizing force in China.

Conclusion

This paper has offered an analysis of why Clinton decided in May 1994 to delink China's MFN status from its human rights record. A critical factor was Clinton's recognition that linkage had failed and had become inimical to U.S. commercial and strategic interests. In part, Clinton came to this conclusion as bureaucratic maneuvering over the MFN issue gave a greater voice to his "economic" team -- Treasury, Commerce and the NEC. But by May, the entire bureaucracy was more or less of one mind on the issue and this may explain the boldness of Clinton's action, rather than back off incrementally from his policy of linkage he scrapped it altogether. Another key factor in understanding Clinton's decision was the effective lobbying campaign waged by business interests. The arguments put forward by business groups reinforced the Administration's rationale for the change in policy and helped shape a centrist coalition in Congress. Although Clinton may have been accused of perpetrating yet another policy flip-flop, in this instance, he enjoyed exceptional support.

Footnotes

¹ A Democratic Congressional staffer quoted in Daniel Williams and Ann Devroy, "China's Disbelief Sank Last Effort on Human Rights," Washington Post, 28 May 1994, p. A 24.

² Vladimir Pregelj, "Most-Favored-Nation Status of the People's Republic of China," (Washington, DC: Congressional Research Service, Library of Congress, 28 March 1996) p. 1.

³ Bruce Stokes, "Playing Favorite," National Journal, 26 March 1994, p. 714.

⁴ Nicholas Lardy, "MFN Denial: The Economic Consequences," NBR Analysis 5, no 1 (July 1994): p 28

⁵ "Waving the Stick at China is Futile," Aviation Week and Space Technology, 21 March 1994, p 68

⁶ "The China Syndrome," U.S. News and World Report, 21 March 1994, p. 39.

⁷ Testimony by Donald Anderson, President, U.S.-China Business Council, contained in Congress, House of Representatives, Committee on Foreign Affairs, Future of United States-China Policy: Joint Hearings before Subcommittees of the Committee on Foreign Affairs, 103rd Congress, 1st session, 20 May 1993, p. 98.

⁸ David Cloud, "As China Deadline Approaches, Many See No Win on MFN," Congressional Quarterly, 30 April 1994, p. 1056

⁹ Susan Lawrence, "How not to Pressure China," U S News and World Report, 31 January 1994, p.55.

¹⁰ Pregelj, p. 5.

¹¹ Wayne Morrison, "China-U S Trade Issues," (Washington, DC: Congressional Research Service, Library of Congress, 28 March 1996): p. 5.

¹² President, 28 May 1993 "Executive Order 12850 -- Conditions for Renewal of Most-Favored-Nation Status for the People's Republic of China in 1994," published in Congress, House of Representatives, Committee on Foreign Relations, China: Human Rights and MFN: Joint Hearing before Subcommittees of the Committee on Foreign Relations, 103rd Congress, 2nd session, 24 March 1994, p 62.

¹³ Pregelj, p 3

¹⁴ David Lampton, "America's China Policy in the Age of the Finance Minister Clinton Ends Linkage," China Quarterly 139 (September 1994): p. 601

¹⁵ Ibid., p. 610.

¹⁶ Daniel Williams, "U.S. Stress on Rights Gives Way," Washington Post, 27 May 1994, p. A 28.

¹⁷ 24 February 1994 Congressional testimony by Assistant Secretary Winston Lord, as published in U.S. Department of State Dispatch, 7 March 1994, p. 127

¹⁸ Ibid., p. 130.

¹⁹ David Cloud, "Congress, White House Agree China Has Yet to Earn MFN," Congressional Quarterly, 19 March 1994, p. 658.

²⁰ Williams, p. A 28.

²¹ Text of President's remarks as published in U.S. Department of State Dispatch, 30 May 1994, p. 345

²² Ibid., p. 345.

²³ Ibid., p. 345.

²⁴ Dwight Perkins, "Human Rights and the Annual Debate over MFN for China," NBR Analysis 5, no. 1 (July 1994): p. 21.

²⁵ Robert Bernstein & Richard Dicker, "Human Rights First," Foreign Policy 94 (Spring 1994): p. 47.

²⁶ Lampton, p. 610.

²⁷ Lampton, p. 613

²⁸ Lampton, p. 616.

²⁹ Cloud, 30 April 1994, p. 1055

³⁰ Lampton, p. 618

³¹ Peter Behr, "U.S. Businesses Waged Year-Long Lobbying Effort on China Trade," Washington Post, 27 May 1994, p. A. 28

³² Lampton, p. 605

³³ Lord testimony, Dispatch, p. 128.

³⁴ Text of GAO report as reprinted in Congress, "What should be the policy of the United States Government toward the People's Republic of China," 104th Congress, 1st session, 1995, S Doc 104-3, p 541.

³⁵ David Cloud, "As Deadline Nears, Pressure Builds for Clinton to Punish China," Congressional Quarterly, 21 May 1994, p 1282.

³⁶ As reported in Congressional Quarterly, 10 September 1994, p 30.

³⁷ Dick Kirschten, "Jilted," National Journal, 13 August 1994, pp. 1918-1922

³⁸ Wynne Pomeroy Waller & Marianne Ide, "The Polls-Poll Trends China and Human Rights," Public Opinion Quarterly 59 (1995): p 135.